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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/618,070	07/14/2003	Roger L. Patterson	80070-3032 ADB	3619

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1700-360 MAIN STREET
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CANADA

EXAMINER

MAMMEN, NATHAN SCOTT

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 06/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/618,070	PATTERSON ET AL.	
	Examiner	Art Unit	
	Nathan S Mammen	3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1,2,7,9,11 and 13 is/are rejected.
- 7) ☒ Claim(s) 3-6, 8, 10, 12 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/24/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: On page 2, lines 17-18, there is a patent application serial number that is suppose to be inserted.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 2, 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,005,343 to Patterson, cited by Applicant, in view of U.S. Patent No. 2,999,348 to Cunningham.

The Patterson '343 patent, issued to a co-applicant of the instant application, discloses substantially of the claimed crop harvesting header, including a main frame, a crop receiving table, a cutter bar, and a crop transport system comprising first and second side drapers and a feed draper. The Patterson '343 patent further discloses a rotary feed member (25) for feeding crop underneath the feed member to an inlet opening of the combine harvester. What the Patterson '343 patent does not disclose is that the rotary feed member is sized to fit in between the side drapers and is mounted for upward and downward movement. The Cunningham '348 patent teaches that it is known in the art of agricultural draper headers to provide a rotary feed

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member (95) sized to fit between side conveyors (see Figs 1 and 2). The Cunningham '348 also discloses that the rotary feed member is mounted for upward and downward movement within the discharge location (see Fig. 2 – mounting locations 96 and 97). When the rotary feed member is in its downward location, it has part of its periphery between the inner ends of the side drapers and is forward from a rear of the side drapers. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the crop harvesting header of the Patterson '343 patent with the rotary feed member sized to fit between the side drapers and capable of movement as taught by the Cunningham '348 patent, in order to provide a rotary feed member mounting that is adjustable to accommodate crop conditions and harvesting requirements.

Regarding claims 2, 7: The Patterson '343 patent discloses that the header includes generally upstanding rear sheets with an opening for crop to pass. The feed draper is wider than the distance between the inner ends of the side drapers and is located beneath the side drapers (see Fig. 2).

4. Claims 9, 11, 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,464,371 to Honey, cited by Applicant, in view of U.S. Patent No. 5,784,869 to Rayfield.

The Honey '371 patent discloses a crop harvesting header comprising a main frame structure (18), a mounting assembly (50), a crop receiving table, a cutter bar, and a crop transport system. The crop transport system comprises first and second side drapers (30) and a feed draper (26). The crop harvesting header has a rotary feed member (70) at the discharge location of the feed draper. The rotary feed member feeds crop underneath the feed member to an inlet opening

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of the combine harvester. A stationary pan (66) is underneath the rotary feed member. What the Honey '371 patent does not disclose is that the pan and the feed draper are mounted to a common support assembly, and that the support assembly is mounted for pivotal movement about a horizontal axis at the rear of the pan. The Rayfield '869 patent teaches that it is known in the art of combine harvester headers to provide a unified header structure including a stationary pan (10) underneath a rotary feed member (8). The unified header structure is pivotal about a horizontal axis located rear of the pan (see Fig. 3 – the header pivots in the slots) relative to the inlet of the combine harvester. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the crop harvesting header of the Honey '371 patent with the pivoting mounting as taught by the Rayfield '869 patent, in order to provide the necessary angle of the header with respect to the combine inlet.

Regarding claims 11: The feed draper (26) is wider than the distance between the inner ends of the side drapers and is located beneath the side drapers (see Fig. 1).

Regarding claim 13: It would have been obvious to one having ordinary skill in the art to optimize the spacing between the rotary feed member and the rear draper of the Honey '371 patent, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum ranges involves only routine skill in the art. In re Aller, 105 USPQ 233 (CCPA 1955). Thus, a spacing of less than or equal to 50 mm would have been obvious.

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Allowable Subject Matter

5. Claims 3-6, 8, 10, 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nathan Mammen whose telephone number is (703) 306-5959. The examiner can normally be reached Monday through Thursday from 6:30 a.m. to 5:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will, can be reached at (703) 308-3870. The fax number for this Group is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 305-1113.


Thomas B. Will
Supervisory Patent Examiner
Group 3600

NSM
6/22/04

Nathan S. Mammen